



Effective: May 18, 2011

Code of Laws of South Carolina 1976 Annotated [Currentness](#)

Title 7. Elections

▢ [Chapter 13](#). Conduct of Elections

▢ [Article 7](#). Voting Provisions Applicable to All Elections

→→ **§ 7-13-710. Proof of right to vote; signing poll list; comparison of signatures; provisional ballot; purpose of requirement.**

(A) When a person presents himself to vote, he shall produce a valid and current:

- (1) South Carolina driver's license; or
- (2) other form of identification containing a photograph issued by the Department of Motor Vehicles; or
- (3) passport; or
- (4) military identification containing a photograph issued by the federal government; or
- (5) South Carolina voter registration card containing a photograph of the voter pursuant to [Section 7-5-675](#).

(B) After presentation of the required identification described in subsection (A), the elector's name must be checked by one of the managers on the margin of the page opposite his name upon the registration books, or copy of the books, furnished by the board of registration. One of the managers also shall compare the photograph contained on the required identification with the person presenting himself to vote. The manager shall verify that the photograph is that of the person seeking to vote. The managers shall keep a poll list which must contain one column headed "Names of Voters". Before a ballot is delivered to a voter, the voter shall sign his name on the poll list, which must be furnished to the appropriate election officials by the State Election Commission. At the top of each page, the voter's oath appropriate to the election must be printed. The signing of the poll list or the marking of the poll list is considered to be an affirmation of the oath by the voter. One of the managers shall compare the signature on the poll list with the signature on the voter's driver's license, registration notification, or other identification and may require further identification of the voter and proof of his right to vote under this title as he considers necessary. If the voter is unable to write or if the voter is prevented from signing by physical handicap, he may sign his name to the poll list by mark with the assistance of one of the managers.

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(C)(1) If the elector cannot produce the identification as required in subsection (A), he may cast a provisional ballot that is counted only if the elector brings a valid and current photograph identification to the county board of registration and elections before certification of the election by the county board of canvassers.

(2) If the manager disputes that the photograph contained on the required identification is the person presenting himself to vote, the elector may cast a provisional ballot. A determination of that provisional ballot must be made in accordance with [Section 7-13-830](#).

(D)(1)(a) If an elector does not produce a valid and current photograph identification due to a religious objection to being photographed, he may complete an affidavit under penalty of perjury at the polling place and affirm that the elector: (i) is the same individual who personally appeared at the polling place; (ii) cast the provisional ballot on election day; and (iii) has a religious objection to being photographed. Upon completion of the affidavit, the elector may cast a provisional ballot. The affidavit must be submitted with the provisional ballot envelope and be filed with the county board of registration and elections before certification of the election by the county board of canvassers.

(b) If an elector does not produce a valid and current photograph identification because the elector suffers from a reasonable impediment that prevents the elector from obtaining photograph identification, he may complete an affidavit under the penalty of perjury at the polling place and affirm that the elector: (i) is the same individual who personally appeared at the polling place; (ii) cast the provisional ballot on election day; and (iii) the elector suffers from a reasonable impediment that prevents him from obtaining photograph identification. The elector also shall list the impediment, unless otherwise prohibited by state or federal law. Upon completion of the affidavit, the elector may cast a provisional ballot. The affidavit must be submitted with the provisional ballot envelope and be filed with the county board of registration and elections before certification of the election by the county board of canvassers.

(2) If the county board of registration and elections determines that the voter was challenged only for the inability to provide proof of identification and the required affidavit is submitted, the county board of registration and elections shall find that the provisional ballot is valid unless the board has grounds to believe the affidavit is false.

(3) If the county board of registration and elections determines that the voter has been challenged for a cause other than the inability to provide proof of identification as required by subsection (A), the county board of registration and elections shall:

(a) note on the envelope containing the provisional ballot that the voter complied with the proof of identification requirement; and

(b) proceed to determine the validity of the remaining challenges before ruling on the validity of the provisional ballot.

(E) The purpose of the identification required pursuant to subsection (A) is to confirm the person presenting himself to vote is the elector on the poll list. Any address listed on the identification is not determinative of an elector's domicile for the purpose of voting. An elector's domicile for the purpose of voting is determined pursuant to the provisions of [Section 7-1-25](#).

CREDIT(S)

HISTORY: 1962 Code § 23-400.51; 1952 Code §§ 23-322, 23-380; 1950 (46) 2059; 1966 (54) 2340; 1968 (55) 2316; 1984 Act No. 510, § 17, eff June 28, 1984; 1988 Act No. 507, § 2, eff May 9, 1988; 1993 Act No 181 § 65, eff July 1, 1993; [1996 Act No. 459, § 5, eff June 5, 1996](#); [2011 Act No. 27, § 5, eff upon contingency](#).

CODE COMMISSIONER'S NOTE

Pursuant to the direction to the Code Commissioner in 2003 Act No. 51, § 18, "Department of Public Safety" was changed to "Department of Motor Vehicles" in the first sentence.

EDITOR'S NOTE

2011 Act No. 27, § 5, declared legally unenforceable pursuant to § 5 of the Voting Rights Act of 1965 by the U.S. Department of Justice, see letter to S.C. Assistant Deputy Attorney General from the Civil Rights Division of the U.S. Department of Justice, dated December 23, 2011. 2011 Act No. 27, § 5, amends Section 7-13-710, which read:

"When any person presents himself to vote, he shall produce his valid South Carolina driver's license or other form of identification containing a photograph issued by the Department of Motor Vehicles, if he is not licensed to drive, or the written notification of registration provided for by §§ 7-5-125 and 7-5-180 if the notification has been signed by the elector. If the elector loses or defaces his registration notification, he may obtain a duplicate notification from his county board of registration upon request in person, or by telephone or mail. After presentation of the required identification, his name must be checked by one of the managers on the margin of the page opposite his name upon the registration books, or copy of the books, furnished by the board of registration. The managers shall keep a poll list which must contain one column headed 'Names of Voters'. Before any ballot is delivered to a voter, the voter shall sign his name on the poll list, which must be furnished to the appropriate election officials by the State Election Commission. At the top of each page the voter's oath appropriate to the election must be printed. The signing of the poll list or the marking of the poll list is considered to be an affirmation of the oath by the voter. One of the managers shall compare the signature on the poll list with the signature on the voter's driver's license, registration notification, or other identification and may require further identification of the voter and proof of his right to vote under this title as he considers necessary. If the voter is unable to write or if the voter is prevented from signing by physical handicap, he may sign his name to the poll list by mark with the assistance of one of the managers."

2011 Act No. 27, §§ 7 and 8, provide as follows:

“SECTION 7. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

“(1) Post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites.

“(2) Train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation.

“(3) Require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held following preclearance by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

“(4) Coordinate with each county board of registration and elections so that at least two seminars are conducted in each county prior to December 15, 2011.

“(5) Coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level.

“(6) Place an advertisement describing the changes in this legislation in South Carolina newspapers of general circulation by no later than December 15, 2011.

“(7) Coordinate with local media outlets to disseminate information concerning the changes in this legislation.

“(8) Notify each registered elector who does not have a South Carolina issued driver's license or identification card a notice of the provisions of this act by no later than December 1, 2011. This notice must include the requirements to vote absentee, early, or on election day and a description of voting by provisional ballot. It also must state the availability of a free South Carolina identification card pursuant to Section 56-1-3350.

“In addition to the items above, the State Elections Commission may implement additional educational programs in its discretion.

“SECTION 8. The State Election Commission is directed to create a list containing all registered voters of South Carolina who are otherwise qualified to vote but do not have a South Carolina driver's license or other form of identification containing a photograph issued by the Department of Motor Vehicles as of December 1, 2011. The list must be made available to any registered voter upon request. The Department of Motor Vehicles must provide the list of persons with a South Carolina driver's license or other form of identification containing a pho-

to graph issued by the Department of Motor Vehicles at no cost to the commission. The commission may charge a reasonable fee for the provision of the list in order to recover associated costs of producing the list.”

The United States District Court for the District of Columbia precleared sections 4, 5, 7, and 8 of 2011 Act No. 27 for future elections in South Carolina beginning with any elections in 2013, see [South Carolina v. U.S., --- F.Supp.2d ---, 2012 WL 4814094 \(D.D.C.,2012\)](#).

EFFECT OF AMENDMENT

The **1984** amendment substantially reworded this section.

The **1988** amendment added language so as to revise the voter identification requirements by providing for proof by written registration notification.

The **1993** amendment substituted “Department of Revenue” for “Department of Highways and Public Transportation (SCDHPT)”.

The **1996** amendment in the first sentence, substituted “Department of Public Safety” for “South Carolina Department of Revenue”.

The **2011** amendment rewrote the section.

CROSS REFERENCES

Applicability of this section to the furnishing of identification by a registered elector whose name does not appear or incorrectly appears on the official list of voters of his precinct, see [§ 7-5-440](#).

Applicability of this section to the identification required as a prerequisite to the right of an elector to vote, see [§ 7-5-620](#).

Applicability of this section to the voting rights of a person whose name does not appear on the registration book, see [§ 7-13-820](#).

Presentation of the identification required by this section, on behalf of handicapped or elderly voters who cannot enter the polling place or stand in line to vote, see [§ 7-13-771](#).

RESEARCH REFERENCES

Encyclopedias

[S.C. Jur. Elections § 36](#), Issuance of Duplicate Certificate.

[S.C. Jur. Elections § 57](#), Proving Right to Vote.

S.C. Jur. Elections § 58, Receiving Ballot.

LAW REVIEW AND JOURNAL COMMENTARIES

“Things have changed in the South”: How preclearance of South Carolina's Voter Photo ID Law demonstrates that Section 5 of the Voting Rights Act is no longer a constitutional remedy. John G. Tamasitis, 64 S.C. L. Rev. 959 (Summer 2013).

ATTORNEY GENERAL'S OPINIONS

Although the Voter ID Act does not define the phrase "military identification containing a photograph issued by the federal government," it is our opinion that a court would likely conclude that a current and valid Veterans Identification Card (VIC) is included within this phrase because eligibility for the VIC card is based upon prior active service in the active military, naval or air service and who was discharged and released from service therefrom under conditions other than dishonorable. S.C. Op.Atty.Gen. (January 31, 2013) 2013 WL 565005.

Discussion of the implementation of 2011 Act No. 27 upon preclearance, for the 2012 general election. S.C. Op.Atty.Gen. (June 29, 2012) 2012 WL 2867807.

The short time frame between any preclearance in the Voter ID legislation and the date of any election immediately thereafter would constitute a reasonable impediment to the voter. S.C. Op.Atty.Gen. (August 16, 2011) 2011 WL 3918168.

A court would likely conclude that the South Carolina “Photo ID” legislation is facially constitutional, however, the “grandfather” provision of the Voter ID Bill would raise serious constitutional concerns under the Equal Protection Clause of the Fourteenth Amendment (U.S. Const. Amend. XIV). S.C. Op.Atty.Gen. (March 3, 2011) 2011 WL 1444704.

Registration certificate lacking attestation as to elector's signature. A challenge by a poll watcher of a vote is not proper, necessarily, where a voter's registration certificate merely lacks the attestation of a board member, deputy member or clerk as to the signature of the elector appearing thereon. 1970-71 Op Atty Gen, No. 3193, p 167.

NOTES OF DECISIONS

In general 1

1. In general

The purpose of §§ 7-13-710 et seq. is to assure the orderly and fair election of South Carolina public officials. *Greene v. South Carolina Election Com'n* (S.C. 1994) 314 S.C. 449, 445 S.E.2d 451, rehearing denied, certiorari denied 115 S.Ct. 580, 513 U.S. 1017, 130 L.Ed.2d 495, rehearing denied 115 S.Ct. 1179, 513 U.S. 1185, 130 L.Ed.2d 1131.

Code 1976 § 7-13-710, SC ST § 7-13-710

Current through End of 2013 Reg. Sess.

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